

ASSEMBLY BILL

No. 1646

Introduced by Assembly Member Campos

February 13, 2012

An act to add and repeal Article 6 (commencing with Section 12099) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1646, as introduced, Campos. California Demonstration of Emerging Market Opportunities Act.

The Governor's Office of Business and Economic Development serves as the Governor's lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. The office, among others, makes recommendations to the Governor and the Legislature regarding policies, programs, and actions to advance statewide economic goals.

Commencing January 1, 2014, this bill would require the office to implement and administer the California Demonstration of Emerging Market Opportunities Act, which would allow state agencies to enter into partnership agreements, as defined, with specified businesses and nonprofit organizations to test, evaluate, or demonstrate innovative solutions and pilot projects, as defined, in a manner that fulfills specified goals relating to economic development. This bill would establish the California Demonstrated Innovation Seal that the office would grant to selected businesses and nonprofit organizations, as specified. This bill would authorize the Department of General Services to charge a reasonable fee to the business or nonprofit organization receiving the

California Demonstrated Innovation Seal to produce the seal. The bill would authorize an agency to assess a fine of up to \$10,000 against a business or nonprofit organization that falsifies or fails to disclose information in connection with a project.

These provisions would remain operative only until January 1, 2019, and as of that date is repealed, unless that date is deleted or extended.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California is home to many of the world's leading technology
4 companies, and the state seeks to spur economic growth, including
5 job growth, by supporting innovation by these companies.

6 (b) The Governor's Office of Business and Economic
7 Development has launched a new, forward-thinking Innovation
8 Hub (iHub) initiative in an effort to harness and enhance
9 California's innovative spirit. The iHub initiative improves the
10 state's national and global competitiveness by stimulating
11 partnerships, economic development, and job creation around
12 specific research clusters through state-designated iHubs. The
13 iHubs will leverage assets, such as research parks, technology
14 incubators, universities, and federal laboratories, to provide an
15 innovation platform for startup companies, economic development
16 organizations, business groups, and venture capitalists.

17 (c) In order to achieve the desired growth, however, inventive
18 businesses require support that reaches beyond traditional business
19 incubators and that streamlines the commercialization of innovative
20 products, services, and processes. The state can provide this support
21 by partnering to provide companies with an opportunity to
22 demonstrate their innovative products, services, and processes
23 while also increasing public awareness of these innovative
24 solutions.

25 (d) The California Demonstration of Emerging Market
26 Opportunities Act will allow the state to take advantage of
27 emerging and innovative technologies, products, and services while
28 providing a new economic development tool that will motivate

1 local companies to excel in technology development and attract
2 new companies to this state.

3 SEC. 2. Article 6 (commencing with Section 12099) is added
4 to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government
5 Code, to read:

6
7 Article 6. California Demonstration of Emerging Market
8 Opportunities Act
9

10 12099. Commencing January 1, 2014, the Governor's Office
11 of Business and Economic Development shall implement and
12 administer the California Demonstration of Emerging Market
13 Opportunities (CalDEMO) Program. The program shall be designed
14 to accomplish all of the following:

15 (a) Directly aid businesses and nonprofit organizations by
16 developing a public platform to demonstrate their innovative
17 solutions and pilot projects for the purposes of providing:

18 (1) Experience engaging with the state in the process of
19 planning, deploying, demonstrating, and maintaining their
20 innovation.

21 (2) High profile public exposure for the business or nonprofit
22 organization demonstrating an innovative solution or pilot project
23 that addresses an issue of statewide significance.

24 (3) Data collection on an innovation's real-time performance
25 in a public setting.

26 (4) An opportunity for a business or nonprofit organization to
27 demonstrate successfully that their innovation can be deployed,
28 operated, and maintained in a real-world setting.

29 (5) An opportunity for a business or nonprofit organization to
30 demonstrate successfully that it has the capacity to sufficiently
31 plan, deploy, operate, and maintain the innovation in a real-world
32 setting.

33 (6) Create new markets for innovative businesses and nonprofit
34 organizations.

35 (b) Improve the quality, efficiency, and operation of state
36 services by utilizing innovative solutions and pilot projects.

37 (c) Allow the state to enter into mutually beneficial agreements
38 whereby the state will benefit from the deployment of new
39 technologies.

1 (d) Increase public awareness of innovative solutions and pilot
2 projects being developed and used by businesses and nonprofit
3 organizations in this state.

4 (e) Create new jobs in this state.

5 12099.1. For purposes of this article, the following terms shall
6 be defined as follows:

7 (a) “Demonstration and testing project” means a project
8 involving a request from a business or nonprofit organization to
9 make state resources available as a forum for testing, evaluating,
10 or demonstrating an innovative solution of the business or nonprofit
11 organization before the innovative solution is deployed in the
12 marketplace.

13 (b) “Innovative solution” means a product, process, service, or
14 information technology that is new or improves upon an existing
15 product, process, service, or information technology and is not
16 presently available in the marketplace. An innovative solution
17 shall be expected to deliver identifiable and measurable benefits
18 compared to current practices in the areas of environmental
19 benefits, performance, overall process reliability and control, or
20 economic and social benefits. An innovative solution shall also
21 consist of a specific and identifiable research component.

22 (c) “Mutual development opportunity project” means a
23 partnership agreement that the office has identified as a potential
24 candidate for making a contribution toward economic development
25 in the state or has the potential for a beneficial use by the state.

26 (d) “Partnership agreement” means an agreement between a
27 state agency and a business or nonprofit organization to test,
28 evaluate, or demonstrate an innovative solution or pilot project. A
29 partnership agreement shall involve a pilot project, a demonstration
30 and testing project, or a mutual development opportunity project,
31 as specified in the scope of work.

32 (e) “Pilot project” means a product, process, service, or
33 information technology that is currently available in the
34 marketplace and which the state may want to explore for further
35 application to improve state services.

36 12099.2. The Director of the Governor’s Office of Business
37 and Economic Development shall designate a partnerships
38 coordinator, who shall do all of the following:

1 (a) Provide guidance to the office and other state agencies
2 regarding the interpretation and the application of the CalDEMO
3 Program.

4 (b) Review and assist in the development of proposed
5 partnership agreements.

6 (c) Track and report on all approved partnership agreements.
7 The partnerships coordinator shall report to the office regarding
8 the implementation and administration of the CalDEMO Program
9 and the status of all approved partnership agreements.

10 (d) Serve as a contact person for inquiries about the CalDEMO
11 Program and serve as a liaison to connect potential partners with
12 appropriate state agencies.

13 (e) Propose regulations, for adoption by the office, that are
14 necessary for the implementation of this article.

15 12099.3. To ensure the efficient implementation and
16 administration of the CalDEMO Program, the office shall do both
17 of the following:

18 (a) Approve or disapprove applications and proposed partnership
19 agreements for the CalDEMO Program based on merit.

20 (b) Review applications and proposed partnership agreements
21 for consistency with Section 12099.

22 12099.4. (a) The office shall develop an application for the
23 CalDemo Program.

24 (b) The application shall require the business or nonprofit
25 organization to provide the following information:

26 (1) A description of the business or nonprofit organization.

27 (2) The goals of the business or nonprofit organization and the
28 state, for the purpose of demonstrating that the proposed
29 partnership agreement will be mutually beneficial to the parties to
30 the agreement.

31 (3) A description of the innovative solution or pilot project,
32 including whether the proposed partnership agreement shall be
33 identified as a pilot project, demonstration and testing project, or
34 a mutual development opportunity project.

35 (4) Established performance measures that will be used to
36 evaluate the success of the project at the conclusion of the
37 agreement.

38 (5) A list of the state resources that will be used to demonstrate
39 the innovative solution or pilot project, including state-owned land,

1 facilities, equipment, rights-of-way, or data that is reasonably
2 necessary.

3 (6) Any special consideration that should be taken into account.

4 (7) Any other information deemed relevant by the office,
5 including information necessary for the office to prepare the report
6 as required by this section.

7 (8) Identification of a problem the proposed innovative solution
8 or pilot project seeks to address.

9 (9) How the innovative solution or pilot project can benefit the
10 state.

11 (c) The partnerships coordinator shall prioritize applications
12 based on the following criteria:

13 (1) Consistency of the goals of the proposed partnership
14 agreement with the purposes of this act.

15 (2) Consistency of the proposed partnership agreement with
16 existing laws, regulations, and practices.

17 (3) Balance between the potential benefits of the proposed
18 partnership agreement to the state and the level of risk assumed
19 by the state.

20 (4) Preference for startup companies based in California. For
21 purposes of this section, “startup companies based in California”
22 means a business or nonprofit organization that has its headquarters
23 in California and produces the innovative solution or pilot project
24 to be demonstrated in California or a business or nonprofit
25 organization that has an office in California and substantially
26 manufactures the innovative solution or pilot project in California
27 or substantially develops the research for the innovative solution
28 or pilot project to be demonstrated in California.

29 (5) The ease at which the project can be installed, set up,
30 utilized, or integrated for purposes of demonstration.

31 (d) The office may charge a fee to the business or nonprofit
32 organization to process the application that shall not exceed the
33 reasonable costs to the office.

34 12099.5. (a) After an application is submitted to the office,
35 the partnerships coordinator shall identify the appropriate state
36 agencies and coordinate and oversee the development of a
37 partnership agreement between the state agency and the business
38 or nonprofit organization. Partnership agreements shall fulfill the
39 goals of Section 12099.

1 (b) State agencies shall actively engage with the business or
2 nonprofit organization to assist in the development of a partnership
3 agreement. State agencies shall act in good faith to develop a
4 reasonable partnership agreement with the business or nonprofit
5 organization.

6 (c) A proposed partnership agreement shall include, but is not
7 limited to, the following requirements:

8 (1) The proposed partnership agreement shall be identified as
9 a pilot project, demonstration and testing project, or a mutual
10 development opportunity project.

11 (2) The proposed partnership agreement shall include a
12 termination date.

13 (3) The proposed partnership agreement shall clearly state the
14 goals of the business or nonprofit organization and the state, for
15 purposes of demonstrating that the proposed partnership agreement
16 will be mutually beneficial to the parties to the agreement.

17 (4) The proposed partnership agreement shall include a set of
18 established performance measures that can be used to evaluate the
19 success of the project at the conclusion of the agreement.

20 (5) The business or nonprofit organization shall agree to
21 indemnify the state against any liability or damages that may result
22 from the project. The state agency may agree, in recognition of an
23 identifiable public benefit to be received by the state under the
24 agreement, to share potential liability after consulting with other
25 appropriate state agencies.

26 (6) The proposed partnership agreement shall authorize the state
27 agency to discontinue the project if it finds that the business or
28 nonprofit organization has falsified or withheld information that
29 should have been disclosed.

30 (7) The proposed partnership agreement shall clearly state the
31 costs to be incurred by the state and provide the methodology used
32 to determine the costs.

33 (d) For purposes of a proposed partnership agreement, the state
34 agency may do all of the following:

35 (1) Authorize the temporary use of state-owned land, facilities,
36 equipment, rights-of-way, or data that are reasonably necessary in
37 conjunction with the project.

38 (2) Absorb a portion of the costs to implement the project, in
39 an amount not to exceed the anticipated benefits to the state of
40 participating in the project.

1 (3) Agree to nondisclosure agreements relating to proprietary
2 information that the state acquires from a business or nonprofit
3 organization during the implementation of a partnership agreement.

4 (4) Perform a safety assessment of the project. The state agency
5 may enter into a memorandum of understanding with a qualified
6 state entity to provide the safety assessment. If the state agency
7 has reason to believe that the project is unsafe or likely to cause
8 any danger, the state agency shall discontinue the project.

9 12099.6. (a) No later than 60 days after the termination date,
10 the state agency shall develop a demonstration report and submit
11 it to the office. The demonstration report shall include all of the
12 following:

13 (1) An evaluation of the project, the business or nonprofit
14 organization, and whether the state agency has sufficient reason
15 to believe that the demonstration successfully resulted in a public
16 benefit.

17 (2) Difficulties that arose in demonstrating the project, if any.
18 This includes, but is not limited to, difficulties with the innovative
19 solution or pilot project, and during the installation, setup, or
20 predemonstration phase.

21 (3) An evaluation of whether the project met all of the
22 performance criteria in the partnership agreement.

23 (4) The value of contributions given to the business or nonprofit
24 organization by the state.

25 (5) Other relevant information as necessary or requested by the
26 office.

27 (b) Within 20 days of receiving the demonstration report, the
28 office shall make any changes to the demonstration report as
29 necessary, and post the report on its Internet Web site.

30 12099.7. (a) The California Demonstrated Innovation Seal is
31 established to recognize a business or nonprofit organization that
32 has developed an exceptional innovative solution or pilot project
33 and successfully deployed and demonstrated its utility. The office
34 shall award the seal to a business or nonprofit organization after
35 the termination of a successful partnership agreement. In making
36 its determination, the office shall consider the demonstration report
37 and any other relevant information.

38 (b) The office's determination shall be posted on its Internet
39 Web site.

1 (c) The Department of General Services shall include innovative
2 solutions and pilot projects that have been awarded the California
3 Demonstrated Innovation Seal in the department's next price book
4 and in an addendum to the existing price book that the department
5 shall provide to all state agencies. It is the intent of the Legislature
6 that the department develop a Demonstrated Innovations catalog
7 which includes innovative solutions and pilot projects that have
8 received the California Demonstrated Innovation Seal.

9 (d) The Department of General Services shall produce the
10 California Demonstrated Innovation Seal. The department may
11 charge a fee, which shall not exceed the reasonable costs to the
12 department, to the business or nonprofit organization receiving
13 the seal to produce it.

14 12099.8. (a) The office may enter into a partnership with
15 foundations or private sector sponsors to solicit funding for the
16 implementation of the CalDEMO Program. It is the intent of the
17 Legislature that the office seek private sector sponsors and partners
18 and foundations to solicit funding for the implementation of the
19 CalDEMO Program consistent with paragraph (f) of Section
20 12096.3.

21 (b) The office may enter into a memorandum of understanding
22 or an interagency agreement to obtain technical, scientific, or
23 administrative services or expertise to support the CalDEMO
24 Program. It is the intent of the Legislature that state agencies with
25 appropriate subject matter expertise provide input to the office
26 when requested.

27 (c) The office may enter into an agreement, including a
28 memorandum of understanding, with another state agency or
29 organization for the purpose of implementing the CalDEMO
30 Program. The agreement shall be entered into for the purpose of
31 reducing costs to the state, reducing or sharing risk, or obtaining
32 technical, scientific, or administrative services or expertise. The
33 agreement shall also specify, including, but not limited to, the
34 metrics to be evaluated in determining whether the project is
35 successful.

36 12099.9. Any party to a partnership agreement, including
37 employees or potential subcontractors, shall comply with all
38 applicable laws, regulations, and any other requirements pertaining
39 to the implementation and execution of the partnership agreement.

1 12100. If at any time a representative of a business or nonprofit
2 organization is found to have falsified or withheld information that
3 should have been disclosed, the state agency may discontinue the
4 project and assess a fine of up to ten thousand dollars (\$10,000)
5 against the business or nonprofit organization for a failure to
6 comply with this section.
7 12100.1. This article shall remain in effect only until January
8 1, 2019, and as of that date is repealed, unless a later enacted
9 statute, that is enacted before January 1, 2019, deletes or extends
10 that date.